

STATE OF MICHIGAN  
IN THE SUPREME COURT

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

No. 161092

DEANDRE TERREL AUSTIN,

Defendant-Appellant.

---

Court of Appeals No. 344703  
Third Circuit Court No. 17-010362-01-FC

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**PLAINTIFF-APPELLEE'S ANSWER OPPOSING DEFENDANT-  
APPELLANT'S APPLICATION FOR LEAVE TO APPEAL**

KYM L. WORTHY  
Prosecuting Attorney  
County of Wayne

JASON W. WILLIAMS  
Chief of Research,  
Training, and Appeals

**JOSEPH D. SHOPP (P81256)**  
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**PLAINTIFF-APPELLEE'S ANSWER OPPOSING DEFENDANT-  
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THE PEOPLE OF THE STATE OF MICHIGAN, by and through KYM L. WORTHY, Prosecuting Attorney for the County of Wayne, JASON W. WILLIAMS, Chief of Research, Training, and Appeals, and JOSEPH D. SHOPP, Assistant Prosecuting Attorney, hereby request that this Honorable Court deny defendant's application for leave to appeal for the following reasons:

1. Defendant's application relies upon the same arguments he made before the Michigan Court of Appeals in support of his claims of instructional error, insufficiency of the evidence presented to support his conviction, and ineffective assistance of counsel.

2. The People's brief on appeal in the Court of Appeals adequately addresses the issues raised by defendant and is incorporated into this answer. See Appendix.

3. The Court of Appeals did not clearly err when it rejected defendant's arguments and affirmed his convictions of first-degree felony murder, armed robbery, felon in possession of a firearm, and felony-firearm. MCR 7.305(B)(5).

4. Defendant's application does not demonstrate any of the other grounds for granting leave to appeal. MCR 7.305(B)(1)-(3).

5. To the extent defendant raises issues in his application that he did not raise in the Court of Appeals, review is foreclosed since there is no "decision by the Court of Appeals" to review. MCR 7.305(B)(5). See also this Court's order in *People v Holloway*, 35 Mich App 420, lv den 387 Mich 772 (1972): "[A]n appellant may not raise in this Court an issue not presented to the Court of Appeals."

6. In sum, defendant's application raises no issues worthy of this Court's review.

**RELIEF**

THEREFORE, the People respectfully request that this Honorable Court deny defendant's application for leave to appeal.

Respectfully submitted,

KYM L. WORTHY  
Prosecuting Attorney  
County of Wayne

JASON W. WILLIAMS  
Chief of Research,  
Training, and Appeals

*/s/ Joseph D. Shopp*

**JOSEPH D. SHOPP (P81256)**  
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Dated: March 30, 2020